

April 22, 2014

Ms. Mona Pasquil  
Appointments Secretary  
Office of the Governor  
State Capitol, First Floor  
Sacramento, CA 94814

Re: Your Request for Advice  
**Our File No. A-14-068**

Dear Ms. Pasquil:

This letter responds to your request for advice regarding the gift provisions of the Political Reform Act (the “Act”).<sup>1</sup>

### QUESTION

May you accept payments from the American International Education Foundation (AIEF) for travel, lodging and meals to attend the Democratic Women’s Leadership Seminar in Israel (the “Seminar”)?

### CONCLUSION

Yes. The gift of travel from AIEF is not prohibited or limited because AIEF is a 501(c)(3) organization and the purpose for the trip is reasonably related to an issue of international public policy. However, you will still have to report the full value of the cost of the travel on Schedule E of your Statement of Economic Interests and, in addition, you would have a conflict of interest in any government decision that would have a reasonably foreseeable material financial effect on the source of the gift (AIEF) for the 12-month period following when the gift is made.

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

## FACTS

On March 27, 2014, you were notified that you had been selected to participate in AIEF's upcoming Seminar in Israel. According to the information provided, AIEF is a non-profit 501(c)(3) organization with the mission of providing educational programming about the U.S.-Israel relationship. AIEF strives to provide qualitative and balanced educational symposia for a variety of audiences including Congress, congressional staff, leaders in the fields of politics and business, students and the public at-large. Established in 1990, AIEF has earned a reputation for producing informative and thought-provoking educational seminars in Israel.

According to AIEF's website:

“Since 1992, AIEF has worked with educators, school representatives, business leaders and government officials worldwide on a range of international student services and educational exchange programs.

“The Foundation is dedicated to bridging the information gap between international students and U.S. academic institutions. To achieve this goal, AIEF provides diverse tools such as overseas recruitment fairs, web resources, orientation seminars, school directories, reference guides, student scholarships, and teacher/counselor training programs. Through our student services website, [www.UScampus.com](http://www.UScampus.com), we provide online guidance to international students on school selection, scholarship opportunities, test preparation, admissions applications, educational funding, student visas, health insurance, cultural issues, living adjustments, and much more. In addition, we offer localized versions of the US campus website in several languages. AIEF is headquartered in Los Angeles, and has offices in Taipei and Shanghai.”

The invitation to participate in the Seminar states:

“This year's educational seminar, the fifth of its kind, is designed to explore Israel's unique contributions to the global community in a variety of sectors and the challenges faced by the Jewish state in the foreign policy and national security arenas.

“Since 2010 nearly fifty-eight women in the political, policy, and business fields have participated in this trip. Past participants have included Donna Brazile, Stephanie Cutter, Senator Heidi Heitkamp, Ann Lewis, Cecile Richards, and Stephanie Schriock.

“The trip is scheduled to depart the U.S. on Saturday, June 14 and return to the U.S. Sunday, June 22, 2014. Ann Lewis will accompany trip participants to Israel again this year.”

“During the course of the week, you will have the opportunity to meet with women leaders, government officials, military officers, members of the Knesset, U.S. officials, Palestinian representatives, immigrants to Israel and leading academics and journalists . . .” [Emphasis in original.]

You have asked, as a designated employee with the Governor’s Office subject to full disclosure, whether you may accept the invitation.

### ANALYSIS

The term “gift” is defined in Section 82028(a) as:

“Any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status.”

In an effort to reduce improper influences on public officials, the Act regulates the receipt of gifts by public officials in three ways:

- First, the Act places limitations on the acceptance of gifts by certain public officials. The current limit is \$440 from a single source in a calendar year. (Section 89503; Regulation 18940.2.) This gift limit applies to you as an employee designated in the Governor’s conflict of interest code. (Section 89503.)
- Secondly, so that the public is made aware of any potential influences from gifts, the Act imposes reporting obligations on officials requiring that any gift or gifts that aggregate to \$50 or more from the same source received during the calendar year are disclosed on the officials’ statements of economic interests (Form 700). Reporting requirements apply to all designating employees consistent with the employee’s category on their conflict of interest code.
- Finally, the Act prohibits any public official from making, participating in making, or using his or her position to influence the outcome of a governmental decision involving the donor of a gift or gifts with an aggregate value of \$440 or more provided to, received by, or promised to the official within the 12 months prior to the date the decision is made. (Sections 87100, 87103(e), Regulations 18700, 18703.4.)

Absent an exception, when a public official’s travel costs are paid for by a third party, the payment is generally a reportable gift under the Act. However, under some circumstances, even though a payment for transportation, lodging, and subsistence will be a reportable gift and subject an official to a possible conflict of interest under the Act, the gift may be exempt from the Act’s gift limit of \$440.

Section 89506(a), in relevant part, provides an exception from the gift limits for certain travel payments:

“(a) Payments, advances, or reimbursements, for travel, including actual transportation and related lodging and subsistence which is reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, are not prohibited or limited by this chapter if either the following apply:

“(1) ....

“(2) The travel is provided by a government, a governmental agency, a foreign government, a governmental authority, a bona fide public or private educational institutions, as defined in Section 203 of the Revenue and Taxation Code, a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or by a person domiciled outside the United States which substantially satisfies the requirements for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.”

The materials you submitted and the AIEF website describe AIEF as a 501(c)(3) organization. The description of the purpose for the trip demonstrates that it is reasonably related to an issue of international public policy. Thus, the gift of travel is not prohibited or limited under the Act.

Please note, however, that because AIEF is a reportable source of gifts on your Form 700, the gift is reportable and can form the basis for a potential conflict of interest under Section 87100. (Sections 87100 and 87103.) Specifically, you would have a conflict of interest if you are called on to make, participate in making or to use your official position to influence a governmental decision that would have a reasonably foreseeable material financial effect on AIEF within the 12-month period following the date the gift is received.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Zackery P. Morazzini  
General Counsel

By: John W. Wallace  
Assistant General Counsel  
Legal Division

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